



COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 13-4

August 21, 2013

Investigation by the Department on its Own Motion into the Implementation in Massachusetts of the Federal Communications Commission's Order Reforming the Lifeline Program

NOTICE OF PROPOSED REQUIREMENTS AND FURTHER REQUEST FOR COMMENT

I. INTRODUCTION

Pursuant to the *Investigation by the Department on its Own Motion into the Implementation in Massachusetts of the Federal Communications Commission's Order Reforming the Lifeline Program*, D.T.C. 13-4, *Order Opening Investigation* (Apr. 1, 2013) ("*Order Opening Investigation*"), and consistent with the procedures agreed to by the participants at the May 14, 2013, public hearing in this matter, the Massachusetts Department of Telecommunications and Cable ("Department") proposes and seeks comment on the draft Lifeline requirements attached to this Notice. *See Appendix.*

The Federal Communications Commission's ("FCC") *Lifeline Reform Order* updated the Lifeline program, seeking to strengthen protections against waste, fraud, and abuse, and improve the program's efficiency.¹ *Lifeline Reform Order*, ¶ 1. The FCC imposed new requirements on eligible telecommunications carriers ("ETCs") and outlined specific instances of states' authority

¹ The term "*Lifeline Reform Order*" refers to *In the Matter of Lifeline & Link Up Reform & Modernization, et al.*, WC Docket No. 11-42, et al., *Rep. & Order & Further Notice of Proposed Rulemaking*, FCC 12-11 (rel. Feb. 6, 2012).

to implement requirements, consistent with those of the FCC, to “preserve and advance universal service.” 47 U.S.C. § 254(f); *Lifeline Reform Order*, ¶¶ 65, 140. Accordingly, the Department determined that an investigation into the implementation of these changes was appropriate. *Order Opening Investigation* at 4. On April 1, 2013, the Department requested comment on the implementation in Massachusetts of the *Lifeline Reform Order*. D.T.C. 13-4, Request for Comment & Notice of Public Hearing (Apr. 1, 2013).

On May 14, 2013, the Department held a public hearing and a procedural conference in this proceeding. Prior to the procedural conference, the Department presented the parties in attendance with a proposed procedural schedule.² Parties present were given an opportunity to comment on the proposed schedule. The parties present agreed that the issues raised by the Department could be addressed, at least in the first instance, through comments filed in the proceeding, rather than through an evidentiary hearing. Parties present encouraged the Department to issue proposed ETC requirements for further comment following the close of the comment period ending May 28, 2013, and to determine later the need for an evidentiary hearing. The Department then issued a Notice to the Parties summarizing the procedural conference and giving parties that were not present an opportunity to comment. D.T.C. 13-4, Notice to the Parties (May 14, 2013). The Department received no comments on or objections to this Notice to the Parties. The Department therefore attaches to this Notice an Appendix containing proposed ETC requirements and seeks further comment on these proposed requirements, through this Notice.

² The attending parties were the National Consumer Law Center; Budget PrePay, Inc., d/b/a Budget Mobile; T-Mobile USA, Inc.; YourTel America, Inc.; Verizon New England Inc., d/b/a Verizon Massachusetts; and Nexus Communications, Inc. (collectively, “parties present”).

II. THE DEPARTMENT’S INITIAL REQUEST FOR COMMENT

In its Exhibit to Request for Comment & Notice of Public Hearing (“Exhibit to Request for Comment”), the Department sought comment on a wide range of procedures and requirements related to the Lifeline program in Massachusetts. The Department addresses each in turn, below. Each of the highlighted point headings below corresponds directly to the text of the Exhibit to Request for Comment.

1. Existing Department Requirements

The Department requested comment on requiring all ETCs to comply with Lifeline procedures and requirements previously established by the Department as part of individual ETC designation proceedings. Exhibit to Request for Comment at 1-3. The Department proposes adopting some of these requirements as proposed, adopting some with modifications, and rejecting others as discussed below.

a. Reporting to the Department on a quarterly basis the number of Lifeline subscriber accounts terminated for non-usage each month.

The Department proposes to require that Massachusetts ETCs that do not assess or collect a monthly fee from their subscribers report annually, not quarterly, to the Department the number of subscribers de-enrolled for non-usage, by month.³ *See* 47 C.F.R. § 54.405(e)(3). ETCs may continue to include this information as part of their FCC Form 555 filing. *See* Appendix at Requirement A(2)(b).

As T-Mobile correctly states, the federal de-enrollment for non-usage requirement applies only to ETCs that do not assess or collect a monthly fee from their subscribers. T-Mobile

³ To the extent that ETC requirements previously-agreed upon in individual proceedings are inconsistent with the proposed requirements herein, the Department proposes that the proposed requirements herein prevail.

Comments at 5; *see also* 47 C.F.R. § 54.405(e)(3); *Lifeline Reform Order*, ¶ 263. T-Mobile also asserts that it both assesses and collects a monthly fee for all of its Massachusetts Lifeline plans and argues that applying the same non-usage requirement to carriers that both assess and collect monthly fees from their subscribers is unnecessary. T-Mobile Comments at 5. Verizon states that it does not terminate any Lifeline subscribers for non-usage. Verizon Reply Comments at 2. In light of these comments, the Department acknowledges that non-usage reporting by carriers that charge a fee to Lifeline subscribers would offer little benefit, and would not significantly reduce waste, fraud, or abuse of the Lifeline program. If paying Lifeline customers do not use their Lifeline service, they likely will choose to cancel the service in lieu of paying the associated fee. Accordingly, the Department proposes applying this annual reporting requirement only to ETCs in Massachusetts that do not assess or collect a monthly fee from their subscribers.

b. Reporting to the Department on a quarterly basis the number of consumer complaints from Massachusetts subscribers regarding its Lifeline service.

The Department proposes to require that each ETC file annually⁴ the number of complaints related to the Lifeline program during the previous calendar year per 1,000 Lifeline subscribers in Massachusetts.⁵

NCLC states that the Department “must play a critical role in complaint resolution” and that the Department should separately identify Lifeline complaints. NCLC Comments at 2. T-

⁴ ETCs may file this information as part of their FCC Form 481.

⁵ Many ETCs previously agreed to this requirement or a more stringent reporting requirement. *See In the Matter of the Application of Virgin Mobile USA, L.P.’s Petition for Ltd. Designation as an Eligible Telecomms. Carrier*, D.T.C. 10-11, Order Approving Petition at 8, 15-16 (Sept. 9, 2011) (“Virgin Mobile Order”); *T-Mobile Ne. LLC Petition for Ltd. Designation as an Eligible Telecomms. Carrier for Purposes of Low Income Support Only*, D.T.C. 12-4, Order Approving Petition at 18, 20 (Aug. 30, 2012) (“T-Mobile Order”); *Petition of Global Connection Inc. of Am. d/b/a STAND UP WIRELESS for Designation as an Eligible Telecomms. Carrier*, D.T.C. 11-11, Order Approving Petition at 15 (Mar. 5, 2013) (“Stand Up Wireless Order”); *Petition of Budget PrePay, Inc. for Ltd. Designation as a Lifeline-Only Eligible Telecomms. Carrier*, D.T.C. 11-12, Order Approving Petition at 13, 15 (Mar. 5, 2013) (“Budget PrePay Order”).

Mobile and Verizon submit that the reporting requirement of 47 C.F.R. § 54.422(b)(2), requiring certain ETCs to report the number of complaints per 1,000 connections, should be sufficient for the Department. T-Mobile Comments at 6; Verizon Reply Comments at 2. Verizon also states that it does not currently track complaints from Lifeline subscribers separately from other subscribers and argues that doing so would require the development of new, Lifeline-specific tracking and reporting systems. Verizon Reply Comments at 3.

Contrary to these submissions, not all ETCs provide complaint information pursuant to 47 C.F.R. § 54.422(b) to the Department. While the FCC requires ETCs to report certain data pursuant to this regulation, the requirement only applies to ETCs designated by the FCC, not to ETCs designated by state commissions. 47 C.F.R. § 54.422(b) (applying the reporting requirements to ETCs designated “under section 214(e)(6) of the Act”).⁶ The Department’s proposal would apply this requirement to Department-designated wireless ETCs, as well as wireline ETCs, while also requiring ETCs to report Lifeline-specific complaints, which is a valuable tool for the Department. *See* 47 C.F.R. § 54.422(b); Appendix at Requirement A(3)(c). The Department is also not persuaded by Verizon’s claim that the development of a new tracking and reporting system for Lifeline complaints would be burdensome, since Verizon employees simply would need to mark Lifeline complaints as such and report the results to fulfill this requirement.

Balancing the importance of receiving Massachusetts Lifeline complaint data and the relatively light burden of identifying these complaints, the Department proposes adopting a

⁶ Tracfone was inadvertently designated as an ETC in Massachusetts by the FCC pursuant to 47 U.S.C. § 214(e)(6). *In the Matter of Fed.-State Joint Bd. On Universal Serv., Tracfone Wireless, Inc. Petition for Designation as an Eligible Telecomms. Carrier in Mass.*, CC Docket No. 96-45, *Order* (rel. Apr. 11, 2008).

requirement that all ETCs provide an annual report detailing the number of complaints related to the Lifeline program per 1,000 Massachusetts Lifeline subscribers.

c. Reporting to the Department on a quarterly basis the amount of Universal Service Fund support received for Massachusetts Lifeline subscribers each month.

The Department proposes not to impose this requirement, and to relieve carriers that currently provide such reporting from continuing to have to do so. T-Mobile and Verizon state that quarterly reporting of universal service fund (“USF”) receipts for Massachusetts Lifeline customers would provide little or no value to the Department. T-Mobile Comments at 6; Verizon Reply Comments at 3. In addition, T-Mobile and Verizon note that the amount of low-income support disbursed to each ETC on a monthly basis is publicly available on the Universal Service Administrative Company’s (“USAC”) website. T-Mobile Comments at 7; Verizon Reply Comments at 3. Under current federal Lifeline rules, T-Mobile and Verizon are correct. *But see Lifeline Reform Order*, ¶¶ 462-469 (seeking comment on what the Lifeline subsidy should be). The Department believes that the burden of quarterly reporting of USF receipts outweighs any benefit the Department currently would receive from such reporting. Accordingly, the Department proposes not to impose this reporting requirement.

d. Filing with the Department, within 60 days of being designated an ETC, the rates, terms, and conditions of the ETC’s Lifeline service.

The Department proposes requiring all newly designated ETCs⁷ to file, within 60 days of designation and prior to offering Lifeline service in Massachusetts, the rates, terms, and

⁷ Requirements for “newly designated ETCs” would not apply to ETCs designated prior to the implementation of these proposed requirements.

conditions of their Lifeline service offerings in Massachusetts.⁸ Although it agreed to this requirement at the time it was designated an ETC in Massachusetts, T-Mobile now states that such a requirement is “duplicative and unnecessary” because such items are filed during the designation process. T-Mobile Comments at 8. While such items generally are filed during the designation process, Lifeline rates, terms, and conditions may change, and this requirement allows the Department to capture an ETC’s most up-to-date rates, terms, and conditions prior to it commencing offering Lifeline service. *See infra* Section 1.e.

- e. Notifying the Department of any changes to the rates, terms, or conditions of the ETC’s Lifeline service 30 days prior to the implementation of the changes; except that changes clearly benefitting Lifeline subscribers (e.g., the *only* change is additional minutes or reduced cost) need not be reported to the Department in advance, but must be reported to the Department at the time the changes are implemented.**

The Department proposes to require wireless ETCs to notify the Department of any material changes to the rates, terms, or conditions of the ETC’s Lifeline service at least five business days prior to the implementation of the changes.⁹ The Department considered requiring 30 days’ advance notice of changes and also considered distinguishing between changes that do not benefit Lifeline subscribers and changes that “clearly benefit[] Lifeline subscribers (e.g., the *only* change is additional minutes or reduced cost)” Exhibit to Request for Comment at 2. YourTel argues that the “only change” language could be confusing to ETCs in determining when to notify the Department. YourTel Comments at 4. T-Mobile argues that “the practical timing of this requirement can prove difficult from an operational perspective.” T-Mobile Comments at 8-9. Both T-Mobile and YourTel submit that it should be sufficient to notify the

⁸ Many ETCs agreed to comply with this requirement or something similar during their designation process. *See* Virgin Mobile Order at 16; T-Mobile Order at 20; Stand Up Wireless Order at 15; Budget PrePay Order at 15.

⁹ Many ETCs previously agreed to comply with more stringent reporting requirements regarding changes to their rates, terms, or conditions. *See* T-Mobile Order at 16; Budget PrePay Order at 15.

Department within 30 days of the implementation of any changes. T-Mobile Comments at 9; YourTel Comments at 4.¹⁰ NCLC submits that this requirement is “entirely appropriate” and “reasonable.” NCLC Public Testimony at 3-4.

To avoid confusion, streamline the reporting process, and provide the Department with correct and up-to-date information to give consumers, the Department removes the distinction between types of changes. The Department also acknowledges that 30 days’ notice of changes may not be necessary, and believes that five business days’ notice for material changes, whether or not they “clearly benefit” Lifeline consumers, is appropriate, not unduly burdensome, and necessary for the Department to accurately conduct outreach and respond to inquiries from consumers about ETCs’ Lifeline offerings. *See Lifeline Reform Order*, ¶ 279 (encouraging states to provide ETCs’ rates, terms, and conditions to low-income consumers). The Department is persuaded by YourTel’s comment that notifications under this requirement should be limited to material changes. *See YourTel Comments* at 4. The Department, however, does not propose this requirement for wireline ETCs because local exchange carriers (“LECs”) in Massachusetts already are required to notify the Department 30 days prior to any changes to their rates, terms, or conditions, including those with respect to their Lifeline offerings. G. L. c. 159, § 19; *see also* Verizon Reply Comments at 3.

f. Providing to the Department copies of all marketing materials circulated in the Commonwealth for the ETC’s Lifeline service within 30 days of the materials’ release.

The Department proposes to require all newly designated ETCs to provide the Department, within 60 days of designation and prior to offering Lifeline service in

¹⁰ T-Mobile also argues that “[a]ny particulars relates [sic] to a wireless ETCs [sic] rates is [sic] preempted under Section 332 of the Federal Telecommunications Act.” T-Mobile Comments at 9. However, annual reporting to the Department of Lifeline rates, terms, and conditions is required for all ETCs. 47 C.F.R. §§ 54.422(a)(2), (c); *see also infra* Section 2.c.

Massachusetts, with all advertising and marketing materials to be used in Massachusetts, including but not limited to print, audio, video, Internet (including email, web, and social networking media), and outdoor signage.¹¹ In addition, the Department proposes requiring all ETCs to file an annual report of marketing or promotional activities conducted during the previous calendar year, to include a description of media services used; methods of marketing; samples of advertisements published in Massachusetts from a variety of media; event appearances and zip codes for those events; and other mass marketing activities. *See* 47 U.S.C. § 214(e)(1)(B); 47 C.F.R. § 54.405(b). T-Mobile asserts that rather than requiring a copy of each advertisement, it would be more useful for the Department to receive one set of advertisements to “comment upon.” T-Mobile Comments at 9. NCLC agrees with T-Mobile’s proposal. NCLC Public Testimony at 3. T-Mobile also asks the Department to be mindful of costs to ETCs. T-Mobile Comments at 10, n.22. Verizon questions the need for any requirements regarding advertising. Verizon Reply Comments at 4.

Instead of requiring that ETCs file all advertisements before they are published, the Department proposes requiring ETCs to file copies of advertisements to be used in Massachusetts within 60 days of designation and prior to offering Lifeline service in Massachusetts. *See* T-Mobile Comments at 9. This requirement, if adopted, would allow the Department an opportunity to review the advertisements to ensure their compliance with program rules and consumer comprehension, while permitting the ETC “to retain its individual preferred messaging to customers” thereafter. T-Mobile Comments at 10; *see also* NCLC Comments at 2. To ensure compliance with federal rules, however, the Department also proposes requiring an annual report of marketing activities as described above. *See* 47 U.S.C. §

¹¹ Many ETCs agreed to comply with this requirement or something similar. *See* Virgin Mobile Order at 9-10; T-Mobile Order at 16; Stand Up Wireless Order at 11; Budget PrePay Order at 10.

214(e)(1)(B); 47 C.F.R. § 54.405(b); *Lifeline Reform Order*, ¶ 278; NCLC Comments at 2. As part of this report, ETCs would not need to file a copy of every advertisement published in Massachusetts, but rather would select samples of advertisements from a variety of media.

g. Participating in dispute resolution by the Department's Consumer Division to resolve Lifeline subscriber disputes.

The Department proposes adopting the requirement that all wireless ETCs¹² participate in the Department's dispute resolution process by working in good faith with staff from the Department's Consumer Division to resolve Lifeline subscriber disputes.¹³ Such disputes may include, but are not limited to, eligibility disputes, program offerings issues, and equipment-related problems.

NCLC submits that the Department should be the "go-to" agency for dispute resolution for Lifeline applicants and subscribers. NCLC Comments at 2. YourTel submits that imposing a requirement that ETCs participate in a formal dispute resolution process would be both burdensome and inappropriate given the current regulatory regime governing wireless ETCs. YourTel Comments at 5. As an alternative, YourTel suggests that the Department impose a requirement that ETCs work in good faith with the Consumer Division to resolve subscriber disputes. *Id.* The Department believes that imposing a requirement that wireless ETCs work in good faith with the Department to resolve Lifeline subscriber disputes is appropriate at this time.

¹² The proposed requirement applies only to wireless ETCs because wireline ETCs in Massachusetts are subject to the *Rules and Practices Relating to Telephone Service to Residential Customers* adopted in D.P.U. 18448 (1977) ("Consumer Protection Rules").

¹³ Many ETCs agreed to comply with this requirement or something similar. See Virgin Mobile Order at 8, 15-16; T-Mobile Order at 18, 20; Stand Up Wireless Order at 15; Budget PrePay Order at 13, 15; see also T-Mobile Comments at 10; Virgin Mobile Assurance Wireless Terms and Conditions, <http://www.assurancewireless.com/public/TermsandConditions.aspx> (last visited July 17, 2013) (indicating that at least five other state commissions participate in dispute resolution with ETCs).

- h. Including the Department's contact information for consumer complaints on the ETC's Lifeline advertising, Lifeline subscriber applications, website, Lifeline terms and conditions, initial Lifeline subscriber receipts, and Lifeline subscriber bills, if applicable; and including information about the Department's dispute resolution process on its website, Lifeline application form, and Lifeline terms and conditions.**

The Department proposes to require that wireless ETCs include the Department's Consumer Division contact information on the ETCs' websites, Lifeline marketing materials, Lifeline applications, initial sales receipts for Lifeline service, and Lifeline terms and conditions, if any.¹⁴ In addition, the Department proposes requiring wireless ETCs to include information about the availability of the Department's Consumer Division for assisting with the resolution of consumer complaints on their websites and in their Lifeline terms and conditions.¹⁵

NCLC strongly supports the inclusion of the Department's contact information on all advertising and marketing materials. NCLC Comments at 2; NCLC Public Testimony at 3. In contrast, T-Mobile submits that it is able to handle consumer concerns more efficiently when consumers contact T-Mobile directly, rendering this requirement unnecessary. T-Mobile Comments at 11. T-Mobile's position is belied by the Department's experience concerning consumer complaints about ETCs. Indeed, when a consumer contacts the Department's

¹⁴ Many ETCs agreed to comply with this requirement or something similar. *See* Virgin Mobile Order at 16 (agreeing to include Department contact information in Lifeline marketing materials); T-Mobile Order at 20 (agreeing to include Department contact information in Lifeline marketing materials); Stand Up Wireless Order at 16 (agreeing to include Department contact information in Lifeline marketing materials, application, subscriber receipts, and terms and conditions); Budget PrePay Order at 15 (agreeing to include Department contact information in Lifeline marketing materials).

¹⁵ Many ETCs agreed to comply with this requirement or something similar. *See T-Mobile Ne. LLC Petition for Ltd. Designation as an Eligible Telecomms. Carrier for Purposes of Low Income Support Only*, D.T.C. 12-4, Evidentiary Hearing Transcript at 95-96 (May 16, 2012) ("T-Mobile Tr.") (testifying that its Lifeline application would contain a notice with an explanation of consumer rights); T-Mobile's response to D.T.C. 12-4, Department Record Request 9 ("T-Mobile will include notice of the Lifeline dispute resolution procedures as required in its Lifeline advertising, in the Lifeline customer application form, and in any Lifeline specific Terms and Conditions."); Stand Up Wireless Order at 15 (agreeing to include notice of Department dispute resolution procedures at point of sale and via Stand Up Wireless' customer service call centers); Budget PrePay Order at 13-14 (agreeing to include notice of the Department's dispute resolution process in its Lifeline application, Lifeline subscriber receipts, Lifeline terms and conditions, and Lifeline marketing materials).

Consumer Division without first contacting the ETC, it is Consumer Division policy to direct the consumer to contact the ETC and attempt to resolve the issue with the ETC first.

Notwithstanding this policy, the Department still receives complaints from consumers about ETCs' service, and in particular complaints that the ETC did not properly address the complaint in the first instance. *See, e.g.*, D.T.C. 13-4, Public Hearing Transcript at 10-19 (May 14, 2013) ("Tr."); Kermit Goodman Written Testimony.

While YourTel would agree to a requirement that Department contact information be included in its terms and conditions, website, and print advertisements, the company broadly opposes the requirement with respect to its Lifeline application and any marketing materials other than print advertising, asserting that there may not be room or that it may become too costly. YourTel Comments at 6. The Department agrees in part and thus proposes not to require expanded information about the availability of the Department's Consumer Division to handle consumer complaints on Lifeline advertising, applications, website, initial Lifeline subscriber receipts, or Lifeline subscriber bills. The Department is not persuaded, however, at least based on the current record, that wireless ETCs cannot find room for such information on their websites or in their Lifeline terms and conditions. In addition, the Department is not persuaded at this time that ETCs would be overly burdened to include the Consumer Division's contact information on ETCs' Lifeline applications or in marketing materials. Contact information does not take up significant room in print, nor does it take long to state on radio or television.

LECs in Massachusetts already are subject to certain publication requirements with respect to the Department's contact information, including a requirement to publish the information in telephone directories and on subscriber bills. *See* Consumer Protection Rules at Rule 3.6; Verizon Reply Comments at 5. In addition, Verizon is required to publish detailed

information regarding the Department's formal dispute resolution process in its telephone directories. Consumer Protection Rules at Rule 2.3; Verizon Reply Comments at 5. The Department believes that these existing requirements adequately inform LECs' subscribers of their ability to contact the Department's Consumer Division and participate in the Department's dispute resolution process. Accordingly, the Department proposes applying these requirements only to wireless ETCs.

i. Providing public safety answering points ("PSAP") self-certification annually to the Department.

The Department proposes to apply this requirement only to non-facilities-based ETCs.¹⁶ YourTel opposes this requirement, arguing that it is unnecessary and excessively burdensome, and that "ETCs have every possible business incentive to remain in full compliance with applicable [PSAP] requirements[.]" YourTel Comments at 6-7. However, based on the record before it, the Department acknowledges that facilities-based ETCs face different responsibilities than non-facilities-based ETCs in terms of 911 and E911 capabilities. *See* T-Mobile Comments at 11. Specifically, non-facilities-based ETCs by definition are not in direct control of any of the facilities over which they provide service, and therefore must utilize a third party to provide 911 and E911 access. In addition, Verizon is correct that LECs face additional 911 and PSAP requirements in Massachusetts, such as maintaining E911 service in compliance with a schedule established by the Massachusetts State 911 Department and providing consumer information to PSAPs. *See* G. L. c. 166 § 14A; Verizon Reply Comments at 6.

Accordingly, the Department proposes asserting its right to impose this obligation, and doing so on non-facilities-based ETCs. *See Lifeline Reform Order*, ¶ 375 (giving states the right

¹⁶ Many wireless ETCs have previously agreed to this requirement. Virgin Mobile Order at 16; T-Mobile Order at 20; Stand Up Wireless Order at 16; Budget PrePay Order at 16.

to impose a PSAP self-certification obligation on Lifeline-only ETCs, confirming that the carrier provides its subscribers with 911 and E911 access). In addition, the Department proposes requiring from each non-facilities-based ETC an annual certification indicating that the ETC paid all applicable 911 fees in the Commonwealth during the previous calendar year. These certifications would be due by March 1 of each year, commencing in 2014.

2. Annual ETC Certification and Other Reporting Obligations

The Department requested comment on requiring ETCs to comply with certain proposed annual ETC certifications and other reporting requirements. Exhibit to Request for Comment at 3-5. The Department proposes adopting some requirements as described in the Exhibit to Request for Comment, adopting some with modifications, and rejecting others as discussed below.

a. A sworn statement explaining whether:

- i. the ETC continues to meet the ETC designation requirements pursuant to 47 U.S.C. §§ 214(e), 254(e); 47 C.F.R. §§ 54.201-54.202, 54.400-54.422 *et seq.*;**
- ii. the ETC is in compliance with the procedures and requirements established by *Lifeline Reform Order*; 47 C.F.R. §§ 54.400-54.422 *et seq.*; and any applicable Department procedures and requirements.**

The Department proposes not to impose the proposed requirements (i) and (ii) above, which would require an annual statement from each ETC. YourTel states that it believes that annual statements of compliance with federal ETC designation requirements and *Lifeline Reform Order* requirements would not provide useful information to the Department and that ETCs already have a strong business incentive to comply with all applicable laws. YourTel Comments at 7. T-Mobile considers that all proposed requirements under this section would be unnecessary, duplicative, and burdensome and may discourage new ETC entrants in

Massachusetts. T-Mobile Comments at 12. Verizon states that these requirements would be unnecessary, duplicative, and burdensome, and that ETCs should be presumed to be in compliance with applicable laws. Verizon Reply Comments at 6.

Based upon these comments, the Department recognizes that the requirement of a sworn statement of compliance with federal ETC rules and the *Lifeline Reform Order* would be duplicative of information that ETCs already must provide as part of the designation process. Accordingly, the Department proposes not to impose these proposed reporting requirements.

iii. the ETC is in compliance with all of the Commonwealth's 911 and E911 obligations.

For a full discussion of this proposed requirement, see Section 1.i above.

iv. the ETC has the capability to provide subscriber access to 911 Public Safety Answering Points.

For a full discussion of this proposed requirement, see Section 1.i above.

v. the ETC's corporate ownership, principal address, business operations, or eligibility qualifications as set forth in (or existing at the time of) the ETC's original petition for designation have changed.

The Department proposes to require each ETC to notify the Department in writing within 30 days if there are any changes to the ETC's ownership structure or principal address, rather than requiring an annual statement. YourTel states that it does not oppose a requirement of informing the Department of any address change within 30 days of the change. YourTel Comments at 7. The Department believes that the burden of providing an annual written statement without regard to whether or not the information provided within it has changed from the previous year would outweigh any benefit to the Department of receiving the statement on a scheduled basis.

vi. the ETC has any outstanding tax liabilities or other late payments or liabilities due and owing to the Commonwealth of Massachusetts.

The Department proposes not to impose a requirement to identify such liabilities.

YourTel states that it believes that this requirement would not provide the Department with useful information and that ETCs already have a strong business incentive to comply with all applicable laws. YourTel Comments at 7. Verizon submits that this requirement would be intrusive and that the existence of a tax liability does not have any bearing on an ETC's ability to provide service. Verizon Reply Comments at 7. The Department is persuaded by Verizon and YourTel's assertions.

vii. the FCC, any state utilities commission, or government agency has rendered or entered a finding, criminal conviction (including plea agreements), or civil judgment or settlement (including consent decrees and money judgments) against the ETC, its executives, or senior managers, since its designation by the Department or its most recent annual filing; and

viii. its ETC designation has been suspended or revoked in any jurisdiction.

The Department proposes to require that, instead of an annual written statement, each ETC inform the Department in writing, within 30 days of the occurrence, if its ETC designation has been suspended, revoked, relinquished, or in any way withdrawn or removed in any jurisdiction; or if the FCC, a state commission, a court, or any government agency has rendered or entered a finding, civil judgment, or settlement (including consent decrees and money judgments) related to the Lifeline program, or a criminal conviction (including plea agreements) related to a dishonest act, false statement, or misuse of the Lifeline program against the ETC, its executive(s), or its senior manager(s). YourTel states that it does not oppose a requirement that ETCs file this information within 30 days of occurrence. YourTel Comments at 7. Verizon states that the entry of any judgment against an ETC in a civil action would not have enough of

an impact on an ETC's ability to provide service to justify a reporting requirement. Verizon Reply Comments at 7. The Department's proposal thus limits the requirement to certain types of judgments, as described above. The Department believes that an annual certification could be somewhat burdensome for ETCs and, more importantly, that it would not be as useful as a written notification upon the occurrence of any of the listed events. Accordingly, the Department proposes adopting a requirement that all ETCs provide written notification within 30 days of such occurrences.

- b. Certified copies of any certifications or reports filed with the FCC or Universal Service Administrative Company ("USAC") including, but not necessarily limited to:**
 - i. the report filed annually with USAC regarding the number of Massachusetts subscribers de-enrolled for non-usage pursuant to 47 C.F.R. § 54.405(e)(3); and**
 - ii. the certification filed annually with USAC (FCC Form 555 or its equivalent) regarding compliance with all federal Lifeline certification procedures pursuant to 47 C.F.R. § 54.416.**

The Department proposes to adopt requirements consistent with (i) and (ii) above, as applicable,¹⁷ and to require that all ETCs provide copies of these filings to the Department by March 1 of each year, beginning in 2014.¹⁸ T-Mobile submits that there is little value to the Department in receiving these filings immediately after the federal filing dates, and that such a requirement would impose additional administrative burdens on ETCs. T-Mobile Comments at 12. T-Mobile also asserts that the majority of states in which it is designated as an ETC provide additional time for ETCs to provide these certifications and reports to state regulators. *Id.* at 12-

¹⁷ Section 54.405(e)(3) of the FCC's rules applies only to ETCs that do not assess or collect a monthly fee from their subscribers. 47 C.F.R. § 54.405(e)(3). Existing ETCs have agreed previously to this requirement. Stand Up Wireless Order at 16; Budget PrePay Order at 16.

¹⁸ This is a modification to a previously enacted Department requirement. See Department Notice to Massachusetts ETCs (May 24, 2012).

13. YourTel states that it does not oppose a requirement of submitting these filings to the Department annually or within 30 days of occurrence. YourTel comments at 7. Verizon does not object to filing the FCC Form 555 with the Department. Verizon Reply Comments at 7.

The Department believes that the contents of these documents would be useful to the Department, but it does not believe it necessary to require ETCs to file these documents on the same date that they file the documents with the FCC and USAC. *See In the Matter of TracFone Wireless, Inc., Annual Verification of SafeLink Wireless Lifeline Subscribers*, D.T.C. 11-9, *Order* at 5-9 (May 16, 2012) (“*Tracfone Audit Order*”). Therefore, the Department proposes a requirement that all ETCs provide copies to the Department of all certifications and reports that they file with the FCC and USAC by March 1 of each year, which is approximately 30 days after the certifications and reports are due to the FCC and USAC. *See Lifeline Reform Order*, ¶¶ 132, 148 (establishing January 31 as the annual deadline for these certifications and reports).

- c. An annual report that includes information specified in 47 C.F.R. §§ 54.422(a)-(b) regarding updated business information (names of holding companies and affiliates and brand designation); outage reports (outages of at least 30 minutes in duration potentially affecting at least 10% of end users in a designated service area or a 911 special facility); number of complaints per 1,000 connections; certification of ability to function in emergency situations; and detailed information regarding offered Lifeline service plans and associated terms and conditions.**

The Department proposes adopting a requirement that each wireless ETC submit to the Department by October 15 of each year the information specified in 47 C.F.R. § 54.422(b).¹⁹ *See* Appendix at A(3)(c), A(6). ETCs may submit this information as part of their FCC Form

¹⁹ Pursuant to 47 C.F.R. § 54.422(a) all ETCs are required to file with USAC, the FCC, and the Department updated business information (names of holding companies and affiliates and brand designation) and the terms and conditions of their Lifeline offerings. 47 C.F.R. § 54.422(a).

481.²⁰ T-Mobile submits that reporting on service outages would be unnecessary and is duplicative of federal reporting requirements because ETCs must already provide copies of the outage reports from 47 C.F.R. §§ 54.422(a)-(b) to the relevant state commissions. T-Mobile Comments at 13. Both YourTel and Virgin Mobile suggest that the Department require copies of federally-mandated reports be submitted in place of the proposed reporting requirement. Virgin Mobile Comments at 2; YourTel Comments at 7.

As noted above, not all ETCs provide the information from 47 C.F.R. § 54.422(b) to the Department. *See supra* p. 5. The Department's proposal would apply this requirement to Department-designated wireless ETCs. The reporting of these data would provide the Department with valuable information about the service that wireless ETCs provide to Lifeline consumers and, because wireless ETCs already gather this data in federal default states, would not create an undue administrative burden. Accordingly, the Department proposes adopting a requirement that each wireless ETC submit to the Department by October 15 each year the information specified in 47 C.F.R. § 54.422(b).

Wireline ETCs are subject to substantially similar reporting requirements under 47 C.F.R. § 54.313 and are required to file this information annually with the Department. 47 C.F.R. §§ 54.313(a), (i); Verizon Reply Comments at 7. Accordingly, the Department proposes applying this requirement only to wireless ETCs.

²⁰ All ETCs must provide business information and the terms and conditions of their Lifeline offerings on an FCC Form 481. *Wireline Competition Bureau Announces Filing Deadline of Oct. 15, 2013 for Eligible Telecomms. Carriers to File High-Cost & Low-Income Annual Reports, & Announces Filing Deadline of Dec. 16, 2013 for States & ETCs to File Annual Use Certifications*, WC Docket Nos. 10-90, 11-42, DA 13-1707 (rel. Aug. 6, 2013). FCC-designated ETCs also must provide the information required by 47 C.F.R. § 54.422(b) using this form.

d. A copy of the ETC's Lifeline subscriber application(s) in use at the time of the filing of its annual ETC certification.

The Department proposes to require that, in lieu of an annual filing, each newly designated ETC file, within 60 days of designation and prior to offering Lifeline service in Massachusetts, a copy of its Lifeline application to be used in Massachusetts. NCLC submits that the requirement as proposed is necessary. NCLC Public Testimony at 3. T-Mobile and Verizon state that their Lifeline subscriber applications are available on their websites and that a requirement that they file copies of the applications with the Department would be unnecessary. T-Mobile Comments at 13; Verizon Reply Comments at 8. YourTel believes that filing the Lifeline subscriber application on an annual basis would not provide the Department with useful information. YourTel Comments at 7.

The Department believes that receiving the information contained in an ETC's Lifeline subscriber application would be useful, but that it is not necessary for ETCs to submit the information on an annual basis. Therefore, the Department proposes requiring all newly designated ETCs to file a copy of their Lifeline subscriber applications within 60 days of designation and prior to offering Lifeline service in Massachusetts.

e. The results of any audits performed pursuant to 47 C.F.R. § 54.420(b) within 30 days of the issuance of the final audit report.

The Department proposes adopting the requirement that all ETCs file the results of any audits performed pursuant to 47 C.F.R. § 54.420(b) within 30 days of the issuance of the final report.²¹ No commenters oppose this requirement. *See, e.g.*, YourTel Comments at 7; Verizon Reply Comments at 8. However, T-Mobile requests that the "result" of any audit under this

²¹ In addition, the Department proposes maintaining the requirement that each ETC submit to the Department a copy of any biennial audit conducted pursuant to 47 C.F.R. § 54.420(a) within 30 days of the issuance of the final audit report. *See* 47 C.F.R. § 54.420(a)(4); *Tracfone Audit Order* at 9; Department Notice to Massachusetts ETCs (May 24, 2012).

section be defined as “the final action/closing of the audit by the Administrator which may be after the conclusion of any applicable appeals process.” T-Mobile Comments at 13. The Department proposes not to adopt T-Mobile’s definition, but rather that ETCs submit a copy of the final audit report, as specified under the FCC’s rules.²² *Lifeline Reform Order*, ¶ 294. ETCs would be free to update the Department throughout any appeals process that may occur.

3. Lifeline Eligibility Criteria

The Department requested comment on the expansion of Lifeline subscriber eligibility requirements in Massachusetts. Exhibit to Request for Comment at 5-6. The Department proposes not changing Lifeline eligibility criteria in Massachusetts at this time. Many commenters support, or do not oppose expanding eligibility criteria. *See, e.g.,* YourTel Comments at 7; NCLC Public Testimony at 1-2; Budget PrePay Comments at 3; Virgin Mobile Comments at 4-6. However, the Department believes that it is appropriate to refrain from doing so at least until the National Lifeline Accountability Database is operational²³ and other measures to reduce waste, fraud, and abuse in the Lifeline program are enacted by the FCC and/or the Department.

Additionally, the Department proposes not to require specific ETC practices regarding updating their marketing materials or notifying existing subscribers with respect to changes in eligibility criteria. *See* Budget PrePay Comments at 4-5; T-Mobile Comments at 14-15; YourTel Comments at 7-8; Verizon Reply Comments at 9.

²² 47 C.F.R. § 54.420 has been approved by the Office of Management and Budget. Lifeline and Link Up Reform and Modernization, Advancing Broadband Availability Through Digital Literacy Training, 77 Fed. Reg. 71,712 (Dec. 4, 2012).

²³ *See* Press Release, USAC, Lifeline Program Accountability Database Construction Under Way (Apr. 19, 2013), available at http://www.usac.org/_res/documents/about/pdf/press-releases/PressRelease_NLAD_130418.pdf.

However, the Department proposes requiring that all ETCs update their Massachusetts Lifeline applications within 30 days of changes in eligibility criteria, including Federal Poverty Guideline calculations. YourTel opposes this requirement, citing “substantial business and FCC regulatory incentives to provide appropriate notice” to consumers. YourTel Comments at 7-8. However, Budget PrePay and Verizon acknowledge that ETCs should update their Lifeline applications when eligibility criteria change because “[i]t is important that an application for new Lifeline service be accurate.” Budget PrePay Comments at 5; Verizon Reply Comments at 9. While Budget PrePay requests that ETCs have 60 days to update their applications, the Department believes that 30 days is appropriate.

4. Outreach, Consumer Safeguards, and Service Quality

The Department requested comment on certain ETC outreach and consumer protection requirements, including certain Lifeline procedures and requirements previously established by the Department in individual ETC designation proceedings. Exhibit to Request for Comment at 6-10. The Department proposes adopting certain of these requirements with modifications and rejecting others as discussed below. In addition, the Department may investigate more closely consumer protection issues at a later phase in this proceeding based on comments received. *See, e.g.,* Rosie’s Place Written Testimony; Kermit Goodman Written Testimony; Tr. at 10-19, 24-28.

a. Offer a basic voice option to eligible Lifeline subscribers with no associated contract term or early termination fee.

The Department proposes not to impose this requirement. The Department believes that it is unnecessary at this time. However, the Department would continue to monitor the terms and conditions of ETCs’ Lifeline service offerings to ensure consistency with the public interest. *See, e.g.,* Appendix at Requirement A(1)(c), A(3)(b), A(7).

b. Offer a minimum 90 day warranty or return policy for refurbished phones provided to Lifeline subscribers.

The Department proposes not to impose this requirement. Budget PrePay, YourTel, and Verizon provide distinct reasons as to why they believe that this requirement is inappropriate. Budget PrePay Comments at 5-6; YourTel Comments at 8; Verizon Reply Comments at 11. NCLC supports a 90 day warranty as a means to increase consumer protection against defective handsets. NCLC Public Testimony at 4. Kermit Goodman states that his son's wireless Lifeline phone malfunctioned within two weeks of receipt and it was difficult to obtain a replacement. Kermit Goodman Written Testimony.

The Department proposes not imposing a minimum warranty or return policy for handsets provided to Lifeline subscribers. Most Lifeline plans are offered with no contract and at no cost to the consumer, allowing for easier movement to another provider than in the traditional wireless market, where providers often require lengthy contracts and early termination fees. In addition, Lifeline subscribers would have the option of contacting the ETC directly or the Department's Consumer Division if they are dissatisfied with their handset or service. *See supra* Section 1.h.

c. Ensure adequate customer service resources to provide: (i) Trained customer service assistance; (ii) Prompt processing of Lifeline subscriber applications; (iii) Prompt and satisfactory customer assistance and resolution of complaints; (iv) Person-to-person customer service assistance if requested by the subscriber; (v) Prompt response to Department inquiries (for example, confirm receipt of complaint within 1-2 business days and report status or resolve complaint within 5-7 business days); and (vi) Customer service point of contact accessible to the Department.

The Department proposes not to adopt these requirements. T-Mobile, YourTel, and Verizon oppose these requirements, calling them "unnecessary and duplicative" (T-Mobile Comments at 17), and "unduly vague" (YourTel Comments at 8-9; Verizon Reply Comments at

12). Budget PrePay and T-Mobile also state that they abide by the CTIA Consumer Code for Wireless Service and that additional requirements would be excessive. Budget PrePay Comments at 6; T-Mobile Comments at 17. Verizon submits that it is already subject to various service quality and customer service requirements. Verizon Reply Comments at 12 (citing its Retail Service Quality Plan and Billing and Termination Rules). In light of these comments, the Department proposes not to adopt these requirements at this time. However, the Department proposes requiring each newly designated ETC to provide the Department with the contact information of the ETC's customer service designee within 60 days of designation, and prior to offering Lifeline service in Massachusetts. The Department believes that this would allow the Department's Consumer Division to effectively communicate with the ETC should complaints arise.

d. Offer the same services and benefits to Massachusetts Lifeline subscribers that the ETC offers in other jurisdictions.

The Department proposes not to impose this requirement, and proposes to relieve any carriers currently subject to this requirement. Budget PrePay and Verizon strongly oppose this requirement. Budget PrePay states that ETCs are able to offer different benefits in different states in part because some states have their own USFs that supplement the federal USF. Budget PrePay Comments at 6-7. Verizon agrees, adding that ETCs provide Lifeline services "in a given state not in a vacuum but in the context of the underlying services available in that state, the state's market conditions, regulatory environment and costs of service[.]" Verizon Reply Comments at 13. The Department acknowledges that an ETC's Lifeline offerings in a particular state may not be transferable to Massachusetts for a variety of reasons. Accordingly, the Department proposes not to impose this requirement.

- e. Provide the following information to the Department within one business day of the onset of any service outage lasting at least 30 minutes affecting at least 10% or 200 of the ETC's Massachusetts Lifeline subscribers, whichever is less, or otherwise affecting special facilities in the Commonwealth including 911 PSAPs: (i) The date and time when the outage began; (ii) The location and cause of the outage; (iii) The approximate number of subscribers affected; and (iv) Plans to restore service and projected service restoration date. Also, during the outage, provide periodic progress reports to the Department on service restoration. Finally, report to the Department the date service is restored.**

The Department proposes not to adopt these requirements. Many commenters oppose these requirements, finding them unnecessary or overly burdensome. *See* T-Mobile Comments at 17-19; Virgin Mobile Comments at 2-4; YourTel Comments at 9; NCLC Public Testimony at 4; Verizon Reply Comments at 14. The Department believes that the proposed outage reporting requirement discussed herein at Section 2.c, if adopted, would be sufficient at this time. *See supra* Section 2.c.

- f. The Department seeks comment from ETCs regarding their ability to comply with Mass Migration Requirements set forth in D.T.E. 02-28 (adopted by D.T.E. Order on August 7, 2002) should they discontinue Lifeline service in Massachusetts. The Department also seeks comment regarding alternative requirements for ETCs that discontinue Lifeline service that include, at a minimum, the following: (1) ETC notification to Lifeline subscribers and the Department 60 days in advance of the provider's intention to cease providing Lifeline service in Massachusetts, and (2) ETC cooperation with Lifeline subscribers and the Department in order to facilitate smooth migration of subscribers to alternative ETC providers.**

The Department proposes to require that each ETC operating in Massachusetts that intends to discontinue Lifeline service shall, at a minimum, satisfy the following: (1) notify its Lifeline subscribers and the Department 60 days in advance of the ETC's planned discontinuance of Lifeline service in Massachusetts; and (2) work in good faith with its Lifeline

subscribers and the Department in order to facilitate smooth transition of subscribers to alternative ETCs of the subscribers' choice.²⁴

YourTel and Verizon oppose adoption of the Mass Migration requirements or an advance notice requirement. YourTel Comments at 9; Verizon Reply Comments at 15. The Department acknowledges that the Mass Migration requirements as outlined in D.T.E. 02-28 are inapplicable to many ETCs. The Department believes, however, that an advance notice requirement would be in the public interest and not overly burdensome on ETCs. YourTel argues that, in the wireline context, a 60 day advance notice requirement is “needed to ensure adequate time for customers of wireline local exchange carriers to solicit and identify an alternative provider and effectuate any needed facilities changes.” YourTel Comments at 9. YourTel goes on to say that such protection is not needed for Lifeline subscribers. *Id.* While it is true that many ETCs offer no contract Lifeline service, the Department does not believe that this means that Lifeline subscribers can switch ETCs in “very short order.” *Id.* YourTel argues that the Mass Migration requirements “are needed to ensure adequate time for customers of wireline local exchange carriers to solicit and identify an alternative provider and effectuate any needed facilities changes.” *Id.* YourTel submits that such concerns are “not present in the ETC space.” *Id.* To the contrary, the Department believes that Lifeline subscribers seeking to change ETCs must also solicit and identify an alternative ETC and effectuate any needed handset changes, *in addition to* possibly re-applying to the Lifeline program with the new ETC. In short, the Department

²⁴ Many wireless ETCs have previously agreed to this requirement. *See* Stand Up Wireless Order at 12 (“Stand Up Wireless agrees to provide advance notice to the Department if it ceases to provide Lifeline in Massachusetts for whatever reason, and agrees to comply with the Mass Migration Requirements.”); Budget PrePay Order at 12 (“[I]n the event that Budget ceases to provide Lifeline in Massachusetts, the Company agrees to provide 30 days advance notice to its customers and to the Department, and certifies that it will comply the Mass Migration Requirements.”); T-Mobile Tr. at 117 (In the event T-Mobile ceases to provide Lifeline service in Massachusetts, T-Mobile testified that it would be obligated “to ensure that these Lifeline subscribers are transitioned either off of Lifeline service or onto another Lifeline service provider.”).

believes that an advance notice requirement is necessary to ensure that low-income consumers' Lifeline service is not interrupted.

5. Other Related Matters

The Department invited comment on any additional matters reasonably related to the implementation in Massachusetts of the *Lifeline Reform Order* and any procedures or requirements needed to implement the *Lifeline Reform Order*, advance universal service, and/or safeguard the federal USF. Exhibit to Request for Comment at 10. Specifically, the Department sought comment on whether ETCs should take more action to retain eligible Lifeline subscribers during the annual recertification process. *Id.* The Department proposes requiring all ETCs to submit annually their proposed method(s) and timing of annual recertification, along with a sample recertification notice. In addition, the Department proposes requiring newly designated ETCs to submit the same within 60 days of designation and prior to offering Lifeline service in Massachusetts.²⁵ T-Mobile and Verizon assert that additional state-specific recertification requirements are unnecessary and that the *Lifeline Reform Order* requirements are sufficient to incentivize carriers to work to retain subscribers. T-Mobile Comments at 19-20; Verizon Reply Comments at 15-16. However, given the high level of de-enrolled subscribers as a result of 2012 recertification, the Department believes that it is necessary to monitor how ETCs are conducting recertification. *See, e.g.,* Tr. at 10-19; *Lifeline Reform Order*, ¶ 140 (authorizing states to supplement the federal recertification requirements). Accordingly, the Department proposes requiring an annual filing, due March 1 of each year, of information regarding each ETC's recertification process.

²⁵ The Department also would maintain the requirement that if any ETC elects to have USAC conduct its annual recertification, the ETC shall notify the Department at the same time that it notifies the FCC and USAC. *See Tracfone Audit Order* at 8; Department Notice to Massachusetts ETCs (May 24, 2012).

III. CONCLUSION

The Department believes that the proposed requirements as outlined above and stated in the Appendix adequately balance burdens on Massachusetts ETCs and the Department's mandate to protect consumers and uphold the integrity of the Lifeline program by maximizing Lifeline subscriptions by eligible consumers while minimizing waste, fraud, and abuse of the Lifeline program.

Parties wishing to comment on these proposed requirements may submit their comments in writing and electronically to:

Catrice C. Williams, Secretary
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500
catrice.williams@state.ma.us

Comments must be received by 5:00 P.M. on September 18, 2013. Reply comments must be received by 5:00 P.M. on October 2, 2013. For questions relating to this matter, please contact Catrice C. Williams at (617) 305-3580 or at catrice.williams@state.ma.us. Please reference "D.T.C. 13-4 Lifeline Investigation" in the subject line of all submissions to the Department on this matter.

/s/ Sean M. Carroll

Sean M. Carroll
Hearing Officer

Appendix - Proposed Requirements for Comment¹

A. Reporting requirements

1. Each newly designated ETC (those ETCs designated following the implementation of these requirements) shall, within 60 days of designation and prior to offering Lifeline service, submit to the Department:
 - (a) a copy of the Lifeline application form that it will use for consumers in Massachusetts;
 - (b) copies of all advertising and marketing materials that it plans to use in Massachusetts, including but not limited to print, audio, video, Internet (including email, web, and social networking media), and outdoor signage;
 - (c) rates, terms, and conditions of its Lifeline service offering(s) in Massachusetts;
 - (d) contact information for the ETC's customer service designee; and
 - (e) the ETC's proposed method(s) and timing of annual recertifications and a sample recertification notice.
2. By March 1 of each year, each ETC shall submit to the Department:
 - (a) a copy of the certifications filed annually with USAC pursuant to 47 C.F.R. § 54.416(a);
 - (b) the number of subscribers de-enrolled for non-usage, by month, pursuant to 47 C.F.R. § 54.405(e)(3), if applicable, and the results of the ETC's annual recertification of Massachusetts subscribers as required by 47 C.F.R. § 54.416(b). (FCC Form 555 or its equivalent);
 - (c) a report of marketing or promotional activities for the previous calendar year, to include a description of media services used; methods of marketing; samples of advertisements published in Massachusetts from a variety of media; event appearances and zip codes of those events; and any other mass marketing activities conducted; and
 - (d) the ETC's proposed method(s) and timing of annual recertifications and a sample recertification notice.
3. By October 15 of each year, each ETC shall submit to the Department:
 - (a) the company name; names of the company's holding company, operating companies and affiliates; and any branding (a "dba," or "doing-business-as company" or brand designation) as well as relevant universal service identifiers for each such entity by Study Area Code, as required by 47 C.F.R. § 54.422(a)(1). (Part of FCC Form 481 or its equivalent);
 - (b) Information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan, as required by 47 C.F.R. § 54.422(a)(2). If the ETC offers plans to Lifeline subscribers that are generally available to the public, it may provide

¹ Unless otherwise noted, these requirements would apply only to ETCs receiving low-income support from USAC for Massachusetts subscribers during the relevant reporting period.

- summary information regarding such plans, such as a link to a public website outlining the terms and conditions of such plans. (Part of FCC Form 481 or its equivalent); and
- (c) a report of the number of complaints related to the Lifeline program during the previous calendar year per 1,000 Lifeline subscribers in Massachusetts (if not provided as part of FCC Form 481).
4. Each ETC shall notify the Department of the following events within 30 days of the event's occurrence:
- (a) its ETC designation has been suspended, revoked, relinquished, or in any way withdrawn or removed in any jurisdiction;
 - (b) the FCC, a state utilities commission, a court, or any government agency has rendered or entered a finding, civil judgment, or settlement (including consent decrees and money judgments) related to the Lifeline program, or a criminal conviction (including plea agreements) related to a dishonest act, false statement, or misuse of the Lifeline program against the ETC, its executive(s), or its senior manager(s); or
 - (c) any change(s) to the ETC's corporate ownership structure or principal address.
5. Each ETC shall provide to the Department a copy of any final audit report generated pursuant to 47 C.F.R. § 54.420(b) within 30 days of the issuance of the final audit report.
6. By October 15 of each year, each wireless ETC shall submit to the Department all information specified in 47 C.F.R. § 54.422(b) (as part of FCC Form 481 or its equivalent), including:
- (a) Detailed information on any outage in the prior calendar year, as that term is defined in 47 C.F.R. § 4.5(a), of at least 30 minutes in duration for each service area in which the ETC is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect:
 - (i) At least ten percent of the end users served in a designated service area; or
 - (ii) A 911 special facility, as defined in 47 C.F.R. § 4.5(e).
 - (iii) Specifically, the ETC's annual report must include information detailing:
 - (A) the date and time of onset of the outage;
 - (B) a brief description of the outage and its resolution;
 - (C) the particular services affected;
 - (D) the geographic areas affected by the outage;
 - (E) steps taken to prevent a similar situation in the future; and
 - (F) the number of customers affected.
 - (b) Certification of compliance with applicable service quality standards and consumer protection rules; and
 - (c) Certification that the carrier is able to function in emergency situations as set forth in 47 U.S.C. § 54.202(a)(2).

7. Each wireless ETC shall notify the Department of any material change(s) to the rates, terms, or conditions of the ETC's Lifeline service in Massachusetts at least five business days prior to the implementation of the change(s).
8. By March 1 of each year, each non-facilities-based ETC shall submit to the Department:
 - (a) a public safety answering point (PSAP) self-certification, confirming that the ETC provides its subscribers with 911 and E911 access; and
 - (b) a certification that the ETC paid all applicable 911 fees in the Commonwealth for the previous year.

B. Consumer Safeguards

1. Each wireless ETC shall:
 - (a) participate in the Department's dispute resolution process by working in good faith with Department staff to resolve Lifeline subscriber disputes;
 - (b) include the Department's Consumer Division contact information on the ETC's website, Lifeline marketing materials, Lifeline applications, initial sales receipts for Lifeline service, and Lifeline terms and conditions; and
 - (c) include information about the availability of the Department's Consumer Division for handling Lifeline complaints on the ETC's website and in its Lifeline terms and conditions.
2. Each ETC that plans to discontinue offering Lifeline service in Massachusetts shall, at a minimum: (1) notify its Lifeline subscribers and the Department 60 days in advance of the ETC's planned discontinuance of Lifeline service in Massachusetts; and (2) work in good faith with its Lifeline subscribers and the Department in order to facilitate smooth transition of subscribers to alternative ETCs of the subscribers' choice.
3. Each ETC shall update its Massachusetts Lifeline application within 30 days of changes in eligibility criteria, including Federal Poverty Guideline calculations.